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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/533,803   | 05/04/2005  | Jordi Vidal Caupena  | 932.1302            | 9561             |
| 21831  | 7590        | 02/24/2006           | EXAMINER            |                  |
| STEINBERG & RASKIN, P.C.<br>1140 AVENUE OF THE AMERICAS, 15th FLOOR<br>NEW YORK, NY 10036-5803 |             |                      |                     | ALIE, GHASSEM    |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 3724   |             |                      |                     |                  |

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                          |                      |
|------------------------------|--------------------------|----------------------|
| <b>Office Action Summary</b> | Application No.          | Applicant(s)         |
|                              | 10/533,803               | VIDAL CAUPENA ET AL. |
|                              | Examiner<br>Ghassem Alie | Art Unit<br>3724     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05/04/05.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/04/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

*Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a third ram for gathering the intermediate dome 11 as set forth in claim 5 must be shown or the feature(s) canceled from the claim(s). It should be noted that the drawings only show two ramps. See Fig. 1 in the drawings. No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "14" in Fig. 3.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 1 and 5 are objected to because of the following informalities:

In claim 1, line 7, “a plurality of drive pulleys (9), which are parallel arranged to the axis of the rotating plates” should be --a plurality of drive pulleys (9), which are arranged parallel to the rotational axis of the rotary plates--.

In claim 1, lines 9-10, “whereby said rotary plates (4) comprise a plurality of perimetral housing” should be -- whereby said rotary plates (4) comprise a plurality of housing at the perimeter--.

In claim 5, lines 1-2, “wherein it comprises at the cutting device (1) outlet sections three ramps” should be --wherein three ramps are disposed at an outlet section of the cutting device (1)--.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 2, “the blade carrier (8)” lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (6,619,946), hereinafter Marshall. Regarding claim 1, Marshall teaches a machine capable of cutting of double-bodied bottles. Marshall also teaches a bottle-neck cutting device and an arc shaped blade 38 which is oriented in parallel to the plane of a rotary plate. Marshall also teaches a plurality of drive pulleys 60 which are arranged parallel to the axis of the rotary plate, which in operation contact the neck of the bottles. Marshall also teaches that the rotating plate includes a plurality of housings which are arranged in such a way that they can move the bottles towards the arc of the blade. See Figs. 1-13B and col. 4, lines 46-67 and col. 5, lines 1-60 in Marshall.

Marshall does not teach that the cutting means includes two acute blades which are oriented in parallel to the plane of two rotary plates and distance in such a way that the double-bodied bottles can fit between the arc shaped blades and the rotary plates the blade.

However, the use of two blades for cutting a bottle-neck of double-bodied bottles are well known in the art such as taught by Stenger (3,432,586). Stenger teaches a machine for cutting bottle-necks 10 of double-bodied bottles 2. Stenger also teaches that the machine has two blade mechanisms 28 which are located on opposite sides of the neck portion 10 of the double-bodied bottle 2. See Figs. 1-6 and col. 3, lines 67-75 and col. 4, lines 1-15 in Stenger.

It would have been obvious to a person of ordinary skill in the art to provide Marshall's machine with another cutting mechanism and rotary plate parallel to the existing cutting mechanism and rotary plate, as taught by Stenger, in order to cut a bottle-neck of

a double-bodied bottle.

Regarding claim 2, as best understood, Marshall as modified above, teaches everything noted above including that the profile of the drive pulley 60 and the blade carrier is defined by being complementary to that of the necks of the bottles.

Regarding claims 3 and 5, Marshall, as modified above, teaches everything noted above, but Marshall does not expressly teach a pressurized air conveyor for moving the bottles including first and second pair of rails and three ramps outlet sections. However, official notice is taken that the use of pressurized air conveyor for moving the bottles including first and second pair of rails and three ramps outlet section are well known in the art.

Regarding claim 4, Marshall, as modified above, teaches everything noted above including that the housings are separated by spoon-shaped teeth in order to facilitate positioning of the bottles inside the housing.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dernnan (3,279,599), Wiggins (5,123,993), Black (4,361,531), Klarl (6,199,615), Seitz et al. (6,675,680), Aidlin et al. (4,938,636), Brown (3,499,068), Marshall et al. (2004/0011169), Le Naour (5,201,788), Kowal (6,817,276), Caupena (2002/0117035), Wakabayashi (3,818,785), Palazzolo (5,617,768), and Amberg (4,025,381) teach a machine capable of cutting double-bodies bottles.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GA/ga

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700

February 17, 2006